

REMARKS

Upon entry of the present amendment, claims 1-11 and 15-19 will be pending in the application.

No claims have been added or canceled. In response to the Advisory Action direction that additional new claims may not be added after a final rejection without canceling a corresponding number of finally rejected claims, claim 20 from the non-entered August 24, 2009 proposed amendment has been omitted. Instead, the above amendment rewrites claim 19 as an independent claim incorporating all of the limitations of claim 1.

The above amendment deletes the phrase "shows no settling after six months" from claim 1. Applicants point out that this amendment adds no new features to the claimed invention that have not already been examined, and therefore does not require any substantial additional consideration. Moreover, as the deleted claim language was the sole basis for the 35 U.S.C. § 112, first paragraph rejection of claims 1-11 and 15-17, Applicants submit that the amendment, at a minimum, places the claims in better form for consideration on appeal by materially reducing or simplifying the issues for appeal, and should be entered pursuant to 37 CFR § 1.116(b)(2).

Amendments to the claims, as set forth above, are made in order to streamline prosecution in this case by limiting examination and argument to certain claimed embodiments that presently are considered to be of immediate commercial significance. Amendment is not in any manner intended to, and should not be construed to, waive Applicants' right in the future to seek such unamended or cancelled subject matter, or similar matter (whether in equivalent, broader, or narrower form) in the present application, and any continuation, divisional, continuation-in-part, RCE, or any other application claiming priority to or through the present application, nor in any manner to indicate an intention, expressed or implied, to surrender any equivalent to the claims as pending after such amendments.

1. Rejection of claims 1-11 and 15-17 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement.

The above amendment deletes the phrase “shows no settling after six months” from claim 1, and therefore also from dependent claims 2-11 and 15-17. As such language was the sole basis for rejection of claims 1-11 and 15-17 under 35 U.S.C. § 112, first paragraph, Applicants respectfully submit that the amendment obviates the rejection. Accordingly, Applicants request that the rejection be withdrawn.

2 Allowability of the application.

As the basis of rejection has been obviated by the above amendment, Applicants submit that all claims are in condition for allowance.

Applicants first note that the only basis of rejection pending against the present application has been obviated by the above amendment. Applicants also point out that June 24, 2009 Office Action explicitly withdrew, in view of the previous amendments made to claim 1, the prior art rejection that had been previously applied to claims 1-11 and 15-17. As no there are no other bases of rejection, Applicants submit that claims 1-11 and 15-17 are in condition for allowance.

Additionally, Applicants respectfully submit that the reasoning set forth in paragraph 7 of the June 24, 2009 Office Action for the allowability of claims 18 and 19 applies equally as well to claim 1. More particularly, unlike Sapper, claims 1-11 and 15-17 specify an aqueous pigment past that is first formed before mixing with a binder and is storable, and the present invention is able to achieve the extended storage stability disclosed and demonstrated in the application regardless of whether or not a particular time limit is set forth in any particular claim. Also, claims 1-11 and 15-17 specify a flaky pigment or mica pigment in a pigment past in an amount of 15-25 wt. %, which the Office Action indicates further distinguishes from Bergfried.

CONCLUSION

Applicants respectfully submit that the Application and pending claims are patentable in view of the foregoing remarks. A Notice of Allowance is respectfully requested. As always, the Examiner is encouraged to contact the Undersigned by telephone if direct conversation would be helpful.

Respectfully Submitted,

/MaryEGolota/
Mary E. Golota
Registration No. 36,814
Cantor Colburn LLP
(248) 524-2300

Thursday, October 08, 2009
CORRESPONDENCE ADDRESS ONLY

BASF CORPORATION
1609 Biddle Avenue
Wyandotte, MI 48192
Customer No. 77224

MEG/PM